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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Cha) Art Unit: 2177

Serial No.: 09/512,949) Examiner: Pannala

Filed: February 25, 2000) AM9-99-0217

For: **INDEXING SYSTEM AND METHOD FOR**) July 11, 2005
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DIMENSIONAL DATA SPACES) San Diego, CA 92101

REPLY BRIEF

Commissioner of Patents and Trademarks
Washington, DC 20231

Dear Sir:

This reply brief responds to new issues in the Supplemental Examiner's Answer dated July 6, 2005.

The Answer maintains that the statutory rejection is correct because a "computer program product"

is "considered as software" that can be written on a piece of paper and "therefore is not considered as a

computer readable medium". That is not an argument, but rather is a legal conclusion that flies in the face

of the express language of MPEP §2106(IV)(B)(2)(a), which approves of a "product" claim and which does

not require that "medium" be recited to render a claim expressly reciting a "product" into a product claim.

In fact, it appears from a lack of citation to it that the Examiner has not availed himself of perusing the

MPEP, which is too bad because it would have saved him from a rendering the somewhat embarrassing

hypothesis about paper. Specifically, the above section of the MPEP expressly defines a safe harbor

manufacture as resulting from "the production of articles for use from raw or prepared materials by giving

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to these materials new forms, qualities, properties or combination, *whether by hand labor* or by machinery"

(emphasis mine).

The argument in rebuttal part (B) about substituting one coordinate transformation reference for

another is irrelevant to the issue of a prior art suggestion to alter the primary reference to use polar

coordinates, but instead simply states that the coordinate conversion principle in a mathematical vacuum is

better set forth in the new secondary reference than in the original secondary reference. It also makes an

irrelevant and in any case unsupported observation about converting polar coordinates to Cartesian to draw

things on computer screens. The present invention, however, is not directed to drawing things on computer

screens, and in any case no prior art support has been adduced of record for the allegedly well-known (and

in any case irrelevant) feature.

This same irrelevant and unsupported allegation about drawing things on computer screens is the

entire support for the rebuttal part (C) and hence will not be further addressed.

Rebuttal part (D) appears to introduce a new standard for enablement, namely, whether a skilled

artisan would "understand the invention details even after reading several times" (sic). This is pure legal

error, departing from any semblance of known legal principles that apply to enablement. Section 112 does

not require anything about "understanding invention details". It requires that a patent specification teach how

to make and use an invention. "Undue experimentation" has never been defined in terms of how many times

an examiner thinks a patent specification must be read, or whether it is "confusing to read". Moreover,

because an examiner is subjectively confused that the "-" symbol might mean subtraction, and is subjectively

enlightened as to its true meaning only after reading the specification "several times", does not equate to an

objective showing of undue experimentation. The specification in fact is clearly written and uses the
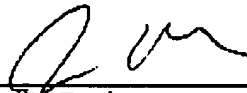
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symbology of the inventor, a skilled artisan himself, chose to use, indicating that at least one skilled artisan, if not the examiner, understands the use of the symbol in question in the context of the specification.

Last, the Supplemental Answer alleges that because "dmin1" is mentioned only once, then "the skilled artisan is burdened with undue experimentation". How many times a variable must be repeated in a patent specification until it sinks in sufficiently to avoid an allegation of undue experimentation, the examiner does not say.

Respectfully submitted,

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